

**United States Department of Labor
Employees' Compensation Appeals Board**

CAROLYN GATES, Appellant

and

**DEPARTMENT OF THE AIR FORCE, TINKER
AIR FORCE BASE, OK, Employer**

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**Docket No. 04-1108
Issued: September 10, 2004**

Appearances:
Carolyn Gates, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On March 22, 2004 appellant timely appealed from a January 20, 2004 decision by the Office of Workers' Compensation Programs which found that she had not established an employment injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that she sustained an employment injury.

FACTUAL HISTORY

On October 28, 2003 appellant, then a 54-year-old aircraft engine repairer, filed a claim for compensation, seeking compensation for lower back pain, tingling in the left foot, left leg pain and nerve damage. Appellant stated that her job required lifting 50 to 75 pounds and contended that the lifting caused a compressed disc in her back.

The employing establishment submitted a copy of the job description and performance standards for the position held by appellant. The job description indicated that an aircraft engine repairer was required to lift up to 70 pounds and carry over 45 pounds.

In a November 21, 2003 letter, the Office informed appellant that the information she had submitted was insufficient to determine whether she was entitled to compensation. The Office instructed appellant to describe in detail the employment-related activities which she believed contributed to her condition. It also asked her to describe the development of her condition from when she first noticed it and the symptoms she had. The Office also informed appellant that she had to provide a comprehensive medical report from her treating physician which described her symptoms, results of examination and tests, diagnosis, the treatment provided and the physician's opinion, with medical reasoning, on the cause of her condition.

In a December 10, 2003 letter, appellant stated that she first noticed her condition in 2001 after standing, bending and lifting heavy aircraft parts. She related that her pain would come and go. She commented that her pain was worse while sitting, bending or lying on her left side. She listed the activities which she believed caused her back condition. She indicated that she lifted parts and equipment weighing up to 70 pounds, she stood 4 to 8 hours a day, she had to bend and stoop to pick up heavy aircraft parts, she lifted heavy parts over her head, knocked out blocks with a sledgehammer weighing up to 50 pounds, installed parts with repetitive hammering every day.

In a January 20, 2004 decision, the Office denied appellant's claim for compensation on the grounds that she had not submitted sufficient evidence to show that she sustained an employment injury.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;¹ (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;² and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.³ The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be

¹ See *Ronald K. White*, 37 ECAB 176, 178 (1985).

² *Jerry D. Osterman*, 46 ECAB 500, 507 (1995); *Walter D. Morehead*, 31 ECAB 188, 194 (1979).

³ *George V. Lambert*, 44 ECAB 870, 876-77 (1993); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

based on a complete factual and medical background of the claimant,⁴ must be one of reasonable medical certainty,⁵ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

ANALYSIS

Appellant submitted a description of the activities in her work that she believed caused her condition. However, she did not submit any other evidence, such as reports from coworkers and her supervisors stating that appellant exhibited pain at work or factual histories given to the physicians who treated her. The evidence of record suggests that appellant has back pain and shows she performs activities requiring heavy lifting at work. However, there is no sufficient evidence in the record to show that her back pain coincided with her activities at work.

Appellant has failed to submit any medical evidence in support of her claim, even though the Office informed appellant of the necessity to submit such evidence. Since appellant did not submit any medical evidence, she has failed to provide a diagnosis of her back condition and any rationalized medical opinion that related her diagnosed condition to the duties she was required to perform at work. Appellant has not established a *prima facie* claim for compensation.

CONCLUSION

Appellant failed to meet her burden of proof in establishing that she sustained an employment injury.

⁴ *Durwood H. Nolin*, 46 ECAB 818, 821-22 (1995); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ *Dennis M. Mascarenas*, 49 ECAB 215, 217-18 (1997); *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁶ *Arturo A. Adams*, 49 ECAB 421, 425-26 (1998).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs, dated January 20, 2004, be affirmed.

Issued: September 10, 2004
Washington, DC

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member